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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifteenth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)*
OF THE 35th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 22 November 1996, at 10 a.m.

Chairperson: Mr. GRISSA
(Vice-Chairperson)

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The public part of the meeting was called to order at 11.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Belarus (continued) (E/1994/104/Add.6; E/C.12/1995/LQ.6/Rev.1; HRI/CORE/1/Add.70)

1. At the invitation of the Chairperson, Mr. Antanovich, Mrs. Satolina, Mrs. Kupchyna and Mr. Shcherbau (Belarus) took places at the Committee table.

2. Mr. ANTANOVICH (Belarus) said that he wished to read out a set of written replies to questions put by the Committee the previous day. The text could be made available shortly to assist the Committee in its examination of his country's third periodic report (E/1994/104/Add.6). It would further be recalled that an addendum to that report, in English (with no document symbol), had also been submitted for the Committee's consideration.

3. Regarding the functions of the Constitutional Court, it should be noted that there was an exhaustive list of persons or entities - including the President, the Supreme Council, the Supreme Court or Higher Economic Court and the Procurator-General - that could apply directly for a ruling on the constitutionality of any domestic or international instrument. Other State bodies, associations and private individuals were not entitled to apply directly to the Court, but could make representations through those designated entities. Any laws, treaties and other instruments found to be unconstitutional by the Court, as violating human rights and freedoms, were considered wholly or partly devoid of legal force.

4. The referendum was used to decide major issues of public or social life or to obtain the views of citizens on them. The result of a referendum held at national or local level could thus be binding or advisory in nature. Voting was universal, free, equal and secret. National referendums did not deal with issues entailing violation of the people's inalienable rights to a sovereign State and to a Belarusian culture and language, or violation of the territorial integrity of Belarus; nor could they relate to special or emergency measures concerning law and order, health and security, taxation, finance or amnesties, issues within the competence of the Supreme Council or issues affecting the fulfilment of obligations arising under international treaties. Similar restrictions obtained for local referendums.

5. Concerning the possibility of censorship and the domination of one language or one party, it should be pointed out that under the Constitution no one could be forced to accept any political, religious or social ideology. The State language was Belarusian, but Russian was freely used - and, indeed, in a referendum held in May 1995, 83.3 per cent of those voting had expressed themselves in favour of giving Russian equal status with Belarusian. National minorities were guaranteed equal political, economic and social rights and freedoms, including the right to study and use their own languages. Under the Education Act, State bodies could intervene in the affairs of educational institutions only where their activities ran counter to the Constitution, to

the law, to the principles of State education policy or to the statutes of the institutions themselves. Education was provided according to plans and programmes aimed at meeting the State's needs and taking account of specific regional and national requirements, at the same time allowing full scope for a variety of ideological viewpoints.

6. As to whether the Covenant could be directly invoked before the courts, article 8 of the Constitution recognized the primacy of the generally recognized principles of international law and ensured that legislation conformed to them. It was not possible to conclude international treaties that conflicted with the Constitution. International treaties were not an integral part of the domestic law of Belarus and in order to be applied they had to be formally incorporated in the country's legislation. Conformity of national legislation with the generally recognized principles of international law was ensured primarily through the enactment of new laws or through amendments to existing legislation. All international human rights instruments had been carefully studied in the process of drafting the 1994 Constitution. As a result, there was an article of the Constitution corresponding to each article of the Covenant, and a number of laws had also been passed and put into effect.

7. The State was based on the principle of the separation of powers, with the legislative, executive and judicial branches forming a system of "checks and balances". The Supreme Council was the highest permanent organ of State power. The President - the head of State and of the executive branch - was directly elected for a maximum of two five-year terms and was empowered under the Constitution (art. 100) to protect the sovereignty, national security and territorial integrity of Belarus, to ensure political and economic stability and to uphold the people's rights and freedoms. In carrying out his tasks, he was assisted by a Cabinet, headed by a Prime Minister. Judges were independent and bound only by the law. No interference was allowed in the administration of justice. Judges of the Supreme Court and of the Higher Economic Court were chosen by the Supreme Council and those of regional, municipal, military and economic or specialized courts were appointed by the President.

8. The duties of the State Labour Inspectorate, whose statutes had been approved by Cabinet of Ministers Decision No. 632 of 20 November 1995, were to oversee and ensure compliance with legislation regarding occupational health and safety, to prevent violations of labour laws and where necessary to impose sanctions, within its statutory powers, on employers. The Inspectorate also coordinated the activities of ad hoc supervisory bodies specializing in health and safety inspections, and collected and analysed information on accidents at work, occupational diseases and breaches of labour legislation.

9. Some further demographic information had already been made available to the Committee in the addendum to the report. It should be noted that the population growth rate had begun to fall in the early 1970s. In 1993 deaths had exceeded births, and had it not been for immigration - which had been significantly higher than emigration - the overall population would have decreased. There had never been a high density of population - currently less than 50 people per square kilometre - and negative population growth due to a fall in birth rates and a substantial rise in mortality rates had been

registered since 1994. Whereas a population could be maintained only if women of child-bearing age on average each had 2.15 children, in Belarus the relevant figure was 1.7 children per woman. Average life expectancy in 1994 had been 75.4 years for women and 64.9 years for men.

10. Belarus aimed to establish not just a market system, but a socially-oriented market economy, with progress in that direction the fullest guarantee of the people's economic, social and cultural rights. Privatization was not an end in itself and if it threatened economic and social rights it was unacceptable. The economic situation was still serious, but the worst now seemed to be over. The gross domestic product (GDP) for the first nine months of 1996 had been somewhat higher than in 1995 and there had been a 2.6 per cent increase in industrial output over the same period. Productivity had risen in ferrous metallurgy, petrochemicals and forestry. Many enterprises had adapted to market conditions and were producing competitive goods. The public's purchasing power for a range of products had risen. Diversification was a top priority, and firstly involved the conversion of the defence industries and use of their great technological potential to increase production efficiency. There was unfortunately a higher consumption of energy per unit output in industry and agriculture than in western countries, leading to higher costs of production and lower competitiveness.

11. Future compliance with the Covenant could be seen from two standpoints. In terms of the law, Belarus would, of course, continue to strive for the highest possible guarantees for economic, social and cultural rights, as could be seen from the draft amendments to the Constitution - aimed at considerably expanding the provisions relating to such rights - that were to be voted on in a national referendum. The law-making process was directed fully at bringing national legislation into line with the provisions of the Covenant and other international human rights instruments. Economically, too, advances towards fuller enjoyment of economic and social rights could be expected. If the economic and social development programme for 1996-2000 was successful, GDP would be 20 per cent higher than in 1996 by the year 2000, industrial output growing by 25 per cent and real money incomes by 20 per cent.

12. Belarus was in favour of the preparation of an optional protocol to the Covenant establishing a complaints procedure as an effective means of promoting the rights contained therein.

13. Under the Constitution, women had the same rights as men and in law they even had certain advantages over men. A major difficulty they faced was in finding work, owing to the fact that labour laws gave them too many privileges affecting their ability to compete in the employment market. That issue was discussed in the addendum to the report. Women also lived considerably longer than men, were better educated, and were more likely to obtain custody of children in the event of divorce. There remained fewer women than men in the public administration, although a positive trend had been noted there, too. For example, the President of the National Bank of Belarus and two ministers were women. The idea of enacting a law setting a quota for female representation in government bodies was being widely discussed. It would thus be wrong to separate the issue of the advancement of women from that of improving the standard of living of the population as a whole.

14. The Constitution and legislation of Belarus did not permit discrimination against displaced or stateless persons or repressed peoples. The legal status of non-citizens was, of course, different from that of citizens, but the differences were as provided for in international human rights instruments. All persons permanently resident in Belarus at the time of its declaration of independence had automatically received Belarusian citizenship, while ethnic Belarusians who had then been living abroad and later wished to return home could obtain Belarusian citizenship through a simplified procedure. Under the Citizenship Act, persons applying to become citizens of Belarus had to have a reasonable knowledge of the language, comply with the Constitution and laws of Belarus, have lived permanently in the Republic for seven years, and have a legal source of income.

15. Not a single ethnic group living in Belarus had been persecuted, and consequently there was no problem of a mass return of populations. There were, however, up to 20,000 illegal migrants in Belarus, mainly from Asia. Some were in transit on their way to western Europe, while others sought to settle in Belarus. Unfortunately, implementation of the Refugee Act was being delayed by a shortage of funds. Once the machinery was working, many illegal immigrants would be able to obtain refugee status. In Belarus refugees had the same rights as foreigners and stateless persons, whose legal position was discussed in the addendum to the report.

16. When setting the goal of creating a socially-oriented market economy, the Government had been aware of the need for large-scale privatization. The country's economic and social development programme for 1996-2000 called for the completion of the privatization of small enterprises, a quickening of the process of denationalization of large enterprises, the introduction of bankruptcy proceedings and liquidaton of some hopelessly inefficient enterprises, and the creation of conditions to attract more foreign capital investment. Priority would be given to the privatization of trade and service institutions and of small and medium-sized enterprises in the manufacturing and agri-food sectors, the wood-working and construction and building-materials industries. Privatization would be carried out with the agreement of the enterprise workforce, which would continue to have a decisive voice with regard to employment and social matters.

17. Unemployment statistics for 1991-1995 were given in the addendum to the report, with a breakdown by age and by length of unemployment. Since 1993, the ratio of job seekers to vacancies had increased 50 per cent to reach 7.4 to 1. That increase was due not so much to high rates of growth of unemployment - currently 3.9 per cent of the economically active population - as to an almost complete halt in job creation. An end to the economic crisis would automatically improve the situation.

18. The term "hidden unemployment" reflected the fact that not all unemployed persons applied to the labour exchanges for work and were therefore not counted in the statistics. Workers engaged in only part-time work or on indefinite unpaid leave had begun to be included only in 1996 and, according to preliminary estimates, represented up to 20 per cent of the labour force. Many of them held two or even three jobs. The Government had drawn up a set of measures to improve the employment situation, including legislation providing for temporary dismissal with the guarantee of being rehired; the

leasing or temporary transfer of redundant plant and equipment to private entrepreneurs who would guarantee production and employment at the enterprise concerned; the entitlement of workers released by the enterprise to rent or use freed premises and capacities on favourable terms or at no charge for their own productive use; a change-over to a system of registration whereby new enterprises created, among others, by unemployed persons would be exempted from taxation for at least two years; Government incentives for banks and finance houses to provide the unemployed with soft loans to start up their own businesses; the development of a broad system of vocational training and retraining; and the organization of public works projects in areas of high unemployment.

19. Replies to issues Nos. 15 to 17 on the list of issues were to be found in the addendum to the report. Reference should also be made to the State programme to improve the status of women drawn up by the Cabinet of Ministers, which included measures to reduce female unemployment and to train women entrepreneurs. In order to claim unemployment benefit, an applicant had to make a declaration of income at the State employment service. The benefit was generally payable for not more than 6 months, but in the case of male workers with over 25 years' service and female workers employed for at least 20 years, benefit was payable for an extra 2 calendar weeks for every year of work exceeding those periods.

20. There was a considerable number of small private businesses, especially in the trade and services sector. The Government considered the development of small- and medium-sized businesses to be a fundamental component of the economic reform. It intended to enact legislation to define their legal status, the procedures for establishing and registering them, and their basic right and obligations. Legislation to institute a simplified system for taxation of such enterprises had been adopted.

21. It would be wrong to think that people out of work had only unemployment benefit as a means of support. There was a system of public assistance for the most needy under which, if income per person in a family was below a certain minimum, the members of the family were entitled to aid in cash and in kind. Moreover, in Belarus there was a well-developed system of subsidiary plots or allotments and gardens for people to grow food. In 1995 income from entrepreneurial and other activities not officially counted had represented 12 per cent of the population's total money income, showing that at least some of the unemployed had undeclared incomes.

22. It was inevitable that the purchasing power of the population should fall during a severe economic crisis. In Belarus, GDP had fallen by half over the past five years. The addendum to the report indicated, however, that since 1994 the gap between the growth rates of consumer prices and of money incomes - 116 per cent in 1993 - had narrowed to 77-78 per cent. The Government's policy of protecting the low-income and socially vulnerable segments of the population had made it possible to soften the impact of inflation on their incomes. While over five years the consumer price index had risen by 50,000 times, per capita nominal money incomes had risen by 28,000 times and the average pension by 36,000 times. Moreover, the

first signs of an improvement in the standard of living had appeared. In the first nine months of 1996, real money incomes had increased by 5 per cent compared with the same period of the previous year, and real wages had risen by 3 per cent. Successful implementation of the Republic's economic development programme to the year 2000 would bring an increase in real money incomes of 105 per cent per year.

23. Exhaustive information on Government measures to create healthy and safe working conditions, as well as on the activities of the State Labour Inspectorate, was given in the addendum to the report.

24. Mr. TEXIER speaking with reference to article 8 of the Covenant, expressed some disquiet about the definition of a trade union in paragraph 28 of the report, where the words "public organization" suggested that trade unions were government-controlled. He asked whether trade unions were independent in Belarus and whether trade union pluralism existed. Also, the right to strike appeared to be unduly circumscribed by the complicated procedures to be fulfilled and by the requirement for two weeks' notice. He asked furthermore that several categories of workers were not allowed to strike. While it was normal for the police and armed forces not to be entitled to strike, it was unusual to disallow power-supply workers from doing so.

25. Mr. CEAUSU said that the working group had serious misgivings about the position with regard to trade unions in Belarus. Information from the United States Department of State and the International Confederation of Free Trade Unions quoted in the Secretariat's country analysis (E/C.12/CA/25) suggested that the provisions of the Covenant were not being observed. According to those sources, the official trade unions' control over social functions usually performed by the State was an obstacle to the growth of true, independent trade unions, and workers were being prevented from joining the trade union of their choice. Enterprises were said to be continuing to deduct trade union dues from workers' pay for the account of the official trade unions. Moreover, in its report on its session in March 1996, the ILO Committee on Freedom of Association had called for changes in Belarusian law to permit workers to strike and to travel abroad to attend meetings. That Committee had urged that trade unionists should not be imprisoned, that trade union property should not be seized and that workers should not be recruited from outside to break strikes. The delegation might wish to comment on those matters. Some information on the reason for the delay in registering certain independent trade unions would also be appreciated.

26. Mr. THAPALIA asked for information on the number of trade unions in Belarus and their total membership, on the extent to which they enjoyed the right to strike and on whether collective bargaining was provided for. Some statistics on working hours would also be welcome.

27. Mr. RATTRAY agreed with Mr. Texier that the right to strike appeared to be considerably restricted in Belarus. So many restrictions might be a legacy of the former centrally planned economy and he wondered whether any change in attitude was contemplated, now that Belarus was moving towards a market economy.

28. Mrs. SATOLINA (Belarus), drawing the attention of members of the Committee to paragraphs 28 and 30 of the report, said that at least 38 trade unions had already complied with the legislation introduced in 1995 requiring all associations to re-register with the authorities. They included the Belarusian Independent Union, created in 1991 and representing miners, chemical, petroleum, energy, transport and construction workers; the Free Trade Union of Metallurgists; the Free Belarusian Union and a local independent union of scientists and industrial workers. The Government had drawn up a list of enterprises where strikes were not permitted in the interests of public health and safety (para. 40 of the report).

29. Mrs. KUPCHYNA (Belarus) referred to written comments submitted by the Government to the International Labour Organization (ILO) on 30 October 1995 concerning grievances of the Minsk transport workers' union not upheld in court, and on 9 September 1996 regarding governmental measures to bring trade union legislation more into conformity with international standards and ILO recommendations. A new draft labour code had been approved in June 1996 and various democratic institutions had been founded, including a National Council on Labour and Social Issues, comprising representatives of the Government, trade unions and employers, and an independent arbitration court for resolving labour disputes. The Government of Belarus would continue to work closely with ILO.

30. Mrs. SATOLINA (Belarus) said that there were several instances of parallel trade unions within the same workplace. The State allowed independent trade unions to operate at their own discretion; they were subject only to the law. Independent trade unions were indeed entitled to apply the "check-off" system (item 26 on the list of issues). There had, moreover, been cases of trade unions successfully defending that right in court. No new acts regulating trade unions had been adopted and there were no restrictions on the establishment of trade unions for particular categories of workers. The right of some categories to take strike action was, however, limited.

31. Mr. WIMER ZAMBRANO recalled the question asked earlier concerning the use of the word "public", which suggested an organization run by the State.

32. Mr. ANTANOVICH (Belarus) explained that "public" was an overly literal translation into English of the Russian word "obshchestvenny". In the present context, the term meant a non-governmental or social organization or association at liberty to form a trade union.

33. Mr. RATTRAY asked whether any trade unions had been refused re-registration, and, if so, on what grounds.

34. Mr. CEAUSU observed that various economic freedoms had been granted in Belarus and prices liberated; however, unless wages and salaries kept pace with inflation and trade union rights were fully protected, the chasm between rich and poor could only widen. In order for the system to function properly,

all the components of a market economy surely needed to be introduced at the same time; otherwise, a majority of the population would continue to suffer.

35. Mr. ANTANOVICH (Belarus), welcoming Mr. Ceausu's assessment, said that the only restrictions to the formation of trade unions were those laid down by law. His delegation was pleased to announce that a compromise appeared to have been reached between the President and Parliament in Belarus and the forthcoming constitutional referendum was thus likely to take place in harmonious circumstances. He wished to stress that, during the difficult transition towards a market economy, both sides unequivocally supported the right to strike and to social protection, as well as the right of workers to air their grievances. The Committee would be sent copies of new legislation designed to incorporate the provisions of the various Covenants. Belarus was thus heading in the right direction.

36. No trade union had been denied the right to re-register, although the process was being held up in some cases, as answers were awaited to certain questions posed by the authorities. The reason why so few trade unions had applied to re-register was that many had disbanded in the interim period and new ones were only now being formed.

37. Mr. CEAUSU asked whether pensions were considered a trade union matter.

38. The CHAIRPERSON, speaking as a member of the Committee, asked whether trade unions in Belarus had retained those functions which had been traditional during the Soviet era.

39. Mr. TEXIER pointed out the need to ensure that the Covenant was made known to the general public. The Committee would have welcomed the participation of trade unions and public representatives.

40. Mrs. SATOLINA (Belarus) explained that the National Pension Fund covered pensions, child allowances and other social benefits. In accordance with the Act on pensions, the fund had its sources in contributions by employees and employers, compulsory social insurance payments, State budgetary allocations and voluntary contributions. Trade unions were not involved.

41. Mr. ANTANOVICH (Belarus) said that trade unions still provided access to kindergartens and holiday resorts, although they had been rather more affluent under the old system. The State had, however, contributed to some extent, particularly in the wake of the Chernobyl accident.

42. Mr. TEXIER asked why women did not enjoy the right to work as many years as men. He was surprised, moreover, at the early ages of retirement in Belarus. Many countries were having difficulty in financing pensions, given increased numbers of older persons and unemployed people. In many capitalist countries, pension funds were being privatized and voluntary contribution systems introduced. What was the situation in Belarus?

43. Mrs. JIMENEZ BUTRAGUEÑO asked whether the retirement age was compulsory in the public and private sectors. Also, were there any feminist associations in Belarus?

44. The CHAIRPERSON, speaking as a member of the Committee, noted that the average life expectancy in Belarus was 79 years. How were the consequent long retirements financed?

45. Mr. AHMED asked whether the 1992 figure of 38 per cent of the State budget devoted to social security, health and education had increased or decreased between 1995 and 1996.

The public part of the meeting rose at 1 p.m.